

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL A. CLARK,

Petitioner,

vs.

DWIGHT NEVEN, *et al.*

Respondents.

2:10-cv-02025-KJD-LRL

ORDER

This prisoner civil action comes before the Court following upon petitioner's failure to file a habeas petition in response to the Court's prior order (#5).

Petitioner filed a motion for appointment of counsel to prepare a "supplemental brief" to a "*pro se* brief" that had not yet been filed. Petitioner did not properly commence a habeas matter by filing a habeas petition. The Court denied the motion. The order informed petitioner that counsel is not appointed in advance of the filing and screening of a *pro se* petition and that "[p]etitioner himself must file a petition in this matter." The Court gave petitioner thirty days to mail a petition to the Clerk for filing. The order clearly stated: "This action will be dismissed without further advance notice if petitioner fails to both fully and timely comply with this order."

No petition has been filed. This action accordingly will be dismissed without prejudice for failure to comply with the order of the Court and for lack of prosecution. In entering a dismissal, the Court has considered the public's interest in expeditious resolution of litigation, including in particular actions challenging state judgments of conviction; the Court's need to

1 manage its docket; the risk of prejudice, including the only marginal potential basis for relation
2 back of a subsequent filing to the papers on file herein; the public policy favoring disposition
3 of cases on their merits; and the possible availability of actions other than dismissal.

4 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice
5 for failure to comply with the order of the Court and for lack of prosecution.

6 The Clerk shall enter final judgment accordingly, dismissing this action without
7 prejudice.

8 DATED: February 1, 2011

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KENT J. DAWSON
United States District Judge

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